

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Don M. Barron Contractor,
Inc.
Farmerville, Louisiana

)
)
) **FINDING OF VIOLATION**

) **EPA-5-99-OH-21**
)
)

Proceedings Pursuant to
Section 113 (a)(3) of the
Clean Air Act,
42 U.S.C. § 7413(a)(3)

)
)
)
)
)

FINDING OF VIOLATION

Pursuant to Section 113 of the Clean Air Act (Act), 42 U.S.C. § 7413, Don M. Barron Contractor, Inc. (Barron) and the State of Ohio are hereby notified that the Administrator of the United States Environmental Protection Agency (U.S. EPA), by authority duly delegated to the undersigned, finds Barron, of 408 Cedar Street, Farmerville, Louisiana, in violation of Section 608 of the Act, 42 U.S.C. § 7671g, and its implementing regulations set forth at 40 C.F.R. §§ 82.154, 82.156 and 82.166.

STATUTORY AND REGULATORY BACKGROUND

1. Section 608(a)(2) of the Act, 42 U.S.C. § 7671g(a)(2), authorizes the U.S. EPA to promulgate regulations establishing standards and requirements regarding the use and disposal of class I and II substances during service, repair, or disposal of appliances and industrial process refrigeration. The Administrator initially promulgated these regulations on May 14, 1993, 58 Fed. Reg. 28712. The Administrator amended the regulations on August 19, 1994, 59 Fed. Reg. 42956; November 9, 1994, 59 Fed. Reg. 55926; August 8, 1995, 60 Fed. Reg. 40440. The regulations were codified at 40 C.F.R. Part 82, Subpart F (\$ 82.150 et seq.)
2. In pertinent part, 40 C.F.R. § 82.154(a) provides that, effective June 14, 1993, no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any class I or class II substance used as refrigerant in such equipment.

3. 40 C.F.R. § 82,156(f) provides that, effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of small appliances, room air conditioning, MVACs (motor vehicle air conditioners) or MVAC-like appliances must either:
 - (1) recover any remaining refrigerant from the appliance in accordance with specific procedures, as applicable; or
 - (2) verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include a signed statement from the person from whom the appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with specific procedures, as applicable. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered or a contract that refrigerant will be removed prior to delivery.
4. 40 C.F.R. § 82.166(i) provides that, effective November 14, 1994, persons disposing of small appliances, MVACs, and MVAC-like appliances must maintain copies of signed statements obtained pursuant to § 82.156(f)(2).
5. 40 C.F.R. § 82.152 defines "appliance" as any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.
6. 40 C.F.R. § 82.152 defines "disposal" as the process leading to and including:
 - (1) The discharge, deposit, dumping or placing of any discarded appliance into or on any land or water;
 - (2) The disassembly of any appliance for discharge, deposit, dumping or placing of its discarded component parts into or on any land or water; or
 - (3) The disassembly of any appliance for reuse of its component parts.

Statement of Facts

7. Barron is a corporation, and is, therefore, a "person" as defined in 40 C.F.R. § 82.152. Barron is a general utility and commercial contractor located at 408 Cedar Street, Farmerville, Louisiana.
8. Barron is a person who contracted to renovate the Forest Ridge Apartments and Town Homes (Forest Ridge) located at 5036 Hawaiian Terrace, Cincinnati, Ohio. This renovation included the removal of approximately 295 air conditioning from the existing apartment exterior walls.
9. On January 28, 1998, two inspectors from Hamilton County Department of Environmental Services (HAMCO) performed an inspection at Forest Ridge to determine compliance with the requirements of 40 C.F.R. Part 82 Subpart 154(a).
10. Upon inspection of the area, inspectors discovered a pile of window style unit air conditioners near a construction trailer in the rear of the Forest Ridge apartments. There were approximately 50 units with severed compressor lines. The severing of the compressor lines resulted in the release of refrigerant to the atmosphere. This release violates 40 C.F.R. Part 82 Subpart F.
11. On January 29, 1998, a HAMCO Permits and Enforcement Area Supervisor and one of the inspectors from the day before, arrived at Forest Ridge in order to further clarify the findings from the previous inspection. Video was shot by the inspector in order to demonstrate the extent of the violations. The video clearly shows the pile of air conditioning units and the inspector points out the path of the severed compressor lines in several units.
12. Based on an information request issued by the U.S. EPA, Barron stated that, "Don M. Barron Contractor, Inc. does not have any record concerning refrigerant recovered or otherwise."

Findings of Violation

13. Barron's severing of the compressor lines during removal and subsequent disposal of the small appliances without first recovering the refrigerant from the appliance in accordance with the procedures in 40 C.F.R. § 82.156(h); or verifying

that the refrigerant had been previously evacuated in accordance with 40 C.F.R. § 82.156(f)(2), or maintaining a copy of signed statements obtained pursuant to § 82.156(f)(2), constitutes a violation of Section 608(c)(1) of the Act, 42 U.S.C. § 7671(c)(1), and 40 C.F.R. §§ 82.154(a), 82.156(f) and 82.166(i).

WHEREFORE, the Administrator of the U.S. EPA, by authority duly delegated to the undersigned, hereby notifies Don M. Barron Contractor, Inc. and the State of Ohio that Don M. Barron Contractor, Inc. is in violation of the Clean Air Act and implementing regulations as set forth above.

6/2/99
Date

Margaret M. Guerriero, Acting Director
Air and Radiation Division

cc: Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

CERTIFICATE OF MAILING

I, Loretta Shaffer, do hereby certify that a Finding of Violation pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

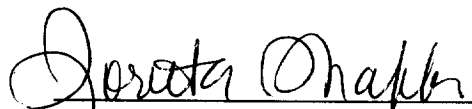
Donald M. Barron, President
Don M. Barron Contractor, Inc.
408 Cedar Street
P.O. Box Drawer 399
Farmerville, Louisiana 71241-0399

also certify that copies of the Finding of Violation pursuant to the Clean Air Act was sent by first class mail to:

Robert Hodanbosi, chief
Division of Air Pollution Controls
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Harry Schwietering, Chief
Hamilton County Department of
Environmental Services
1632 Central Parkway
Cincinnati, Ohio 45210

on the 3rd day of June, 1999.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: P140 777 296